

Rechtsgeschichte Legal History

www.rg.mpg.de

<http://www.rg-rechtsgeschichte.de/rg27>
Zitiervorschlag: Rechtsgeschichte – Legal History Rg 27 (2019)
<http://dx.doi.org/10.12946/rg27/176-183>

Rg **27** 2019 176–183

Leticia Vita*

Weimar in Argentina: a Transnational Analysis of the 1949 Constitutional Reform

* Universidad de Buenos Aires / CONICET, ljvita@derecho.uba.ar



Abstract

In 1949, Argentina for the first time incorporated a catalog of social rights and other provisions of social content into its constitution, breaking the liberal paradigm of the original constitutional text of 1853. Most of the studies on this subject in Argentina are characterized by »provinciality«. Both promoters and detractors of the constitutional amendment focus in their interpretations on the local context that led Argentina to adopt a new *magna carta* by the late 1940s. By contrast, this study offers a transnational analysis of the 1949 constitutional reform. My global history perspective in this case serves to challenge the strong »methodological nationalism« that characterizes the more traditional studies of *Peronism* and of the 1949 constitutional reform in particular. Furthermore, while not denying that there were several other ideas and models that influenced the Argentine experience, I will in this essay concentrate on the impact of the Weimar constitutional experience. In particular, I will focus on *cultural and linguistic translation*, because not only geographical but also linguistic barriers are important. As we will see, the recognition of the scope of the provisions in Weimar's constitution was strongly conditioned by the role played by the mediators and translators of that experience in Argentina.

Keywords: Weimar Constitution, Argentina, Peronism, translation, 1949 constitutional reform



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Weimar in Argentina: a Transnational Analysis of the 1949 Constitutional Reform

1 Introduction: Cultural Translation and Social Constitutionalism in Argentina

In 1949, Argentina for the first time incorporated a catalog of social rights and other provisions of social content in its constitution, breaking the liberal paradigm of the original constitutional text of 1853. Compared to other countries in the region, this was a late reform, since by that year most Latin American constitutions already included socioeconomic rights. Even in Argentina, the constitutions of many individual provinces included provisions on social rights.¹ This does not mean that there had not been any previous amendment attempts at the national level, or that these processes had not begun to transform ordinary legislation. However, it was only in the late 1940 that the *reformist boost* found the appropriate context in which to develop. The country had been under the administration of the Peronist party since 1946. This political regime encouraged a number of important legislative reforms at the national level that in many cases came from initiatives and projects that were not new, but had previously not found the proper political environment to be developed.²

In this context, the constitutional reform of 1949 was a process as predictable as it was contentious. Even if there was a certain intellectual environment favoring the »refreshing« of the constitutional text, keen on the reforms that were being adopted at regional and global level,³ the opposition accused the government of introducing the constitutional reform with the sole purpose of amending the article that prohibited presidential re-election to enable Perón to stay in power. It was partially in response to these accusations that Perón announced his intention to submit a comprehensive constitutional reform⁴ in his speech inaugurating the 1948 legislative session.

The reform process started not without resistance. The opposition questioned whether the preconditions for constitutional reform⁵ had been met, disputing the legitimacy of the whole process. This controversy would color later interpretations of the reform. Despite the fact that the 1949 constitutional amendment was revoked in 1956 by the *de facto* government that overthrew Perón, the debate over the reform's legitimacy has overshadowed the studies on its scope in terms of social constitutionalism.⁶ We therefore know very little about the significance of these provisions and even

1 The first expression of social constitutionalism in Latin America was the 1917 Mexican constitution, followed by those of Perú (1920) and Chile (1925). However, it has been pointed out that the actual highpoint of social constitutional reform came only in the 1930s, with the reforms in Brazil (1934), Uruguay (1934) and Colombia (1936). See HERRERA (2014). In Argentina, many provinces had already amended their constitutions before 1949, such as Mendoza (1916), Entre Ríos (1933), and Buenos Aires (1934).

2 For basic bibliography about Peronism, see JAMES (1990); LOBATO/SURIANO (2013); MURMIS/PORTANTIERO (2011). On the effectiveness of social law, see (among others) PALACIO (2018).

3 HERRERA (2014) 393.

4 Actually, between 1930 and 1948 more than twenty legislative projects on constitutional reform were submitted. However, only nine of these date to before 1945, whereas once Perón rose to power, the number grew to more than three per year. However, Perón himself never openly spoke in favor of reforming the 1853 constitution until the 1 May 1948, when he gave the legislative sessions' inaugural speech. As of that date, the Peronists began an avalanche of reform projects with ambitious content that involved not only the public officials, congressmen and senators of the Peronist party but also multiple representatives of civil society, and particularly jurists. See SEGOVIA (2005).

5 Article 30 of the 1853 constitution states: »The constitution may be to-

tally or partially amended. The necessity of reform must be declared by congress with the vote of at least two thirds of the members; but it shall not be carried out except by an assembly summoned to that effect«. The constitution did not clarify whether it required two thirds of the members voting or two thirds of the total of existing members of congress. The decision for the 1949 reform passed with the votes of two thirds of those present in parliament.

6 For more detail, see VITA (2019).

less about the inputs and the circulation of knowledge that contributed to their design. This does not mean that there is no existing literature dedicated to the 1949 constitutional reform, but it concentrates mainly on aspects not related to the specific characteristics of the reform in terms of social constitutionalism.

Moreover, most of the studies on the subject in Argentina are characterized by profound »provinciality«. Both promoters and critics of the 1949 constitutional amendment focus in their interpretations on the local context that led Argentina to adopt a new *magna carta* in the late 1940s. In fact, it is often referred to as the »Peronist« reform,⁷ suggesting that it was driven only by this regime and by national conditions, disengaged from the processes that had been ongoing since the beginning of the century at an international level.

I break with these interpretations by offering a transnational analysis of the 1949 constitutional reform. My global history perspective in this case serves to challenge the strong »methodological nationalism«⁸ that characterizes the more traditional studies of Peronism and particularly the constitutional reform of 1949. Furthermore, while not denying that there were several other ideas and models that influenced the Argentine experience. I will here concentrate on the impact of the Weimar constitutional experience. In particular, I will focus on *cultural and linguistic translation*, because not only geographical but also linguistic barriers play a role in the transnational reception of law.⁹ As we will see, the recognition of the scope of the provisions in the Weimar Constitution was strongly conditioned by the roles played by mediators and translators of that experience in Argentina.

Finally, it is worth mentioning that even if this study focuses on the circumstances of the 1949 Argentine constitutional reform, it is framed within a larger research project on the perception, circulation, and translation of Weimar's legal ideas

in Argentina. Therefore, we can discuss different stages of these local interpretations. The Argentine view of Weimar was not the same in the 1920s as in the 1930s or after the fall of the Republic and the rise of Nazism in the 1940s.¹⁰

2 The Weimar Constitution in the 1949 Constitutional Assembly

An investigation of the influence of the Weimar Constitution in Argentina requires investigating the »uses« of Weimar in the context of the 1949 constitutional reform. This comprehensive reform of the 1853 constitution led to the inclusion of social rights and other social provisions at the constitutional level. Even if Weimar was not the only previous constitutional experience to have an impact on the Argentine process, it certainly exerted significant influence, which deserves to be studied.

In what follows, I will concentrate mainly on the debates of the Constitutional Assembly during its sessions in the city of Buenos Aires between January and March 1949. The assembly consisted of members of congress from the governing Peronist party and from the largest opposition party, the Radicals. The latter continued to question the legitimacy of the reform process and eventually quitted the sessions before the conclusion of the debates. The text of the new constitution, however, was approved by congress and remained in force until its revocation by the military government that overthrew the Peronist regime in 1955.

In the records of the assembly debates we can find Argentine constitutional congressmen invoking Weimar experience for three purposes. These »uses« of Weimar reveal the cultural translation and the local impact of the Weimar Constitution. The first was to refer to the ideas of certain jurists active during the Weimar Republic, mainly Carl

7 See for example BIDART CAMPOS (1977) and LÓPEZ ROSAS (1996).

8 CONRAD (2017). For a discussion of a global legal historical perspective, see DUVE (2017).

9 PERNAU / SACHSENMAIER (2016). The role of translators is especially relevant when the linguistic and cultural distance is as big as in the cases analyzed in this same *Focus* section by Fupeng Li and Xin Nie.

10 At least during the first half of the century, the Weimar Constitution was a frequently used resource. Particularly its provisions on workers' rights, democracy, and the social role of property were recognized as significant in the legal world of its time. These aspects met with much Argentine interest, especially among supporters of socialism. In effect, the politician Augusto Bunge was one of

the main translators of the German experience in Argentina: BUNGE (1919). For a periodization of the reception of the Weimar Constitution in Latin America, see the article of Carlos Herrera in this *Focus* section.

Schmitt and Hans Kelsen. The second meaning of the Weimar Constitution was its status as a pioneering document of social constitutionalism. Finally, the third type of interpretation was to see the Weimar Constitution as the prelude to Nazism. This was used by the opposition to suggest parallels between the Peronist regime and Nazism. In what follows I shall analyze these three types of references to Weimar in turn.

2.1 *The Impact of Weimar Jurists*

This first type of reference to Weimar has already partly been explored by Jorge Dotti in his book *Carl Schmitt in Argentina*. Dotti found that until the Constitutional Assembly of 1949, Carl Schmitt was little-known in Argentina outside of certain intellectual circles, and that it was precisely the constitutional reform debate that made him popular.¹¹ According to Dotti, the main connection between Schmitt and early Peronism took place within the nationalist sectors of the party. In his view, the 1949 reform, »besides making the re-election of Perón possible«, was a response to a »nationalist view, since the Peronists could have picked up and re-signified some ideas from nationalism«. ¹² It was the nationalists amongst the Peronists who particularly made use of Schmitt's thought.

A survey of the Constitutional Assembly's sessions shows that most references to Schmitt were made by two Peronist congressmen: Joaquín Díaz de Vivar, a public law professor and the representative for the province of Corrientes, and the jurist Arturo Sampay. The former was the first to mention Schmitt¹³ in the assembly, using Schmitt's work to illustrate the plurality of meanings of the word »constitution«. ¹⁴ He did so in order to respond to the Radical party's arguments that the assembly lacked the legitimacy to amend the constitution. Following Schmitt, Díaz de Vivar argued that a constitution is always a political decision and that it is *that* which makes it different from a

constitutional law.¹⁵ The constitutional power of people »does not end in the simple creation of a constitution«¹⁶ but rather has an unlimited quality. In this sense, Díaz de Vivar claimed that the Constitutional Assembly had full legitimacy to reform the constitution in all its parts, because it itself represented the people's constitutional power.¹⁷

For Arturo Sampay, the jurist »who paid most attention to Schmittian thought in his writings«, ¹⁸ Schmitt was an ambiguous resource. Perhaps aware of the problems that mentioning Schmitt might raise in a context where the Peronist Party was accused of being totalitarian by its detractors, Sampay cleverly avoided making certain references and aimed to detach the thinker from his political involvement. For instance, when Díaz de Vivar admitted to being a follower of Schmitt's definition of constitutional power,¹⁹ he was challenged by the radical assembly member Anselmo Marini, who dismissed Schmitt's conclusions because »he is not very prestigious due to his connections with Nazism«. ²⁰ To this accusation, Díaz de Vivar answered that Schmitt's work on constitutions predated his Nazi commitment and that »ideas are valued not in relation to the person who produces them, but rather by their own virtuosity and intellectual quality«. ²¹

Sampay, in his turn, chose to answer Marini's challenge by mentioning yet another Weimar thinker, Hans Kelsen. Sampay pointed out that Kelsen's definition of state, previously mentioned by Marini, could be »perfectly enforced in the National Socialist state«. ²² This interpretation provoked Marini to react by stating that Kelsen not only lived in exile, but had been »a victim of the National Socialist state« from the beginning.²³

Kelsen was another Weimar jurist heavily quoted by the members of the 1949 Constitutional Assembly. His concept of democracy was cited by the Peronist representative for San Juan, Pablo Ramella,²⁴ and the Radical member Antonio Sobral mentioned Kelsen in connection with the

11 DOTTI (2000) 95.

12 *Ibid.*

13 DOTTI (2000) 96.

14 Dotti points out that by the mid-1940s, the first edition of Schmitt's *Theory of the Constitution* had already sold out in Argentina.

15 ARGENTINA (1949) 182.

16 ARGENTINA (1949) 183.

17 It was Díaz de Vivar who spoke with Perón about inviting Schmitt to Argentina. Perón, however, opposed this visit, stating that »they already accuse us of being Nazis enough without us bringing in this German professor«. DOTTI (2000) 110.

18 DOTTI (2000) 135.

19 ARGENTINA (1949) 181.

20 ARGENTINA (1949) 184.

21 *Ibid.*

22 *Ibid.*

23 *Ibid.*

24 ARGENTINA (1949) 168.

Austrian constitution.²⁵ Sampay himself, who invoked Kelsen at a number of different points, claimed after each mention that his reference to Kelsen should be welcomed by the »many distinguished Kelsen followers who sit on these benches«. ²⁶ To this provocation, it was once again Marini who responded, saying that he was not a *Kelsenian*, »but Kelsen serves many purposes«. ²⁷

Finally, other German thinkers of the Weimar period mentioned during the debates included Hugo Preuß, »father« of the Weimar Constitution, ²⁸ and also Hugo Sinzheimer, one of the main authors of that constitution's social provisions, particularly regarding workers' rights. It was once again Sampay who invoked Sinzheimer, this time in order to introduce the concept of »social rights«. He followed Sinzheimer in defining these as »the entirety of norms that emanate from the state, or that the state recognizes as such, even when they originate from professional associations«. ²⁹

From these references to Weimar legal thinkers, we may anticipate some conclusions. First, among all the authors quoted in the assembly, Schmitt and Kelsen clearly stand out, demonstrating the importance of German public law in Argentina in the 1940s. However, the engagement with the two thinkers' works during the first Peronist period clearly differed from how Argentine jurists had read and used their thought during the 1920s and 1930s, because what Germany meant to Argentina had changed. Mentioning Schmitt and Kelsen was a demonstration of erudition and knowledge of the most relevant names in German public law, but at the same time it had to be »measured« or »reinterpreted« in the light of the events under the Nazi dictatorship. ³⁰

2.2 *Weimar as a Pioneering Document of Social Constitutionalism*

The second »use« of the Weimar Constitution by assembly members is of particular interest to this study: its invocation as an international prece-

dent of social constitutionalism. It was not the only constitution described as a precedent in the preparatory documents and during the assembly sessions, but it is interesting to note that it is recalled as the first landmark of social constitutionalism, even sometimes above the Mexican Querétaro constitution of 1917, which predated the Weimar Constitution. Whether or not the speaker engaged with its text in detail, allusion to the Weimar Constitution seems to have been unavoidable.

During the assembly debates, two of its members invoked the Weimar experience in this sense. One was the Radical Antonio Sobral. Despite stating that he was not going to »elaborate on the development of social constitutionalism – after the end of the war in 1914 – or to enumerate the common aspects of the European constitutions after such conflagration«, ³¹ he proceeded to give a sort of genealogy of social constitutionalism in which he included the Weimar case. In addition, and once again after claiming that he was not going to »expand on the work that judicial science has accomplished in the creation of these laws, in the social sense« he referred to Kelsen as the main author of the 1920 Austrian constitution and Hugo Preuß as one of the main authors of the Weimar Constitution, describing both texts as »proclaim[ing] social rights and social economy«. ³² Sobral also quoted the constitutions of Danzig and Estonia (both 1920), the Polish constitution of 1921, and the Yugoslavian, Chinese, and Italian ones. He did not discuss their distinctive features but simply affirmed that these precedents could be used as »evidence [that] all that the constitutional movement acquires was already in the social and legal conscience of those times«. ³³

The other constitutional assembly member who invoked Weimar as a precedent was the Peronist jurist Rodolfo Guillermo Valenzuela, Chief Justice of the National Supreme Court from 1947 to 1955. Valenzuela proposed the analysis of social constitutionalism »inspired by a new philosophy, a new concept of what is just and with a new appreciation

25 ARGENTINA (1949) 301.

26 ARGENTINA (1949) 192.

27 *Ibid.*

28 ARGENTINA (1949) 301.

29 ARGENTINA (1949) 444.

30 The use made of Kelsen's thought in the Brazilian Constituent Assembly of 1933–1934 in Brazil differed, be-

cause its members did not yet associate Weimar Germany with the Nazi experience. See SILVEIRA SIQUEIRA (2016) 248–265.

31 ARGENTINA (1949) 301.

32 *Ibid.*

33 *Ibid.*

of humanity». ³⁴ In his view, these constitutions embodied two fundamental principles: the transformation of the state, and the necessary limitation of individual rights in favor of social rights. He affirmed that no »legal competence of any kind« was needed to identify these precedents, but that they could be »understood from the simple reading of the constitutional texts«. And among all the possible precedents, he chose to cite Weimar, underlining that its authors had »built a concept by virtue of which men enjoyed a number of individual rights, the exercise of which was limited to serving the community«. ³⁵ These limitations could only take the form of constitutional rights.

Valenzuela went on to quote the precedents of Mexico and Weimar, briefly mentioned the cases of Estonia, Poland, Yugoslavia, and Danzig, before he stopped to provide more details on the French constitution of 1947. Of the Latin American examples, he mentioned the constitutions of Brazil (1934 and 1937) and of Cuba (1940). In all of them, he identified a »series of norms that form part of what has been called the social control of individual liberties«. ³⁶ He came back to the Weimar Constitution to highlight the safeguards that it offered families, including »marriage as the beginning of the family and the preservation and development of the nation« and entrusting the state with »the role of protecting the purity, health, and social improvement of the family«. ³⁷

Finally, Weimar is also the reference chosen by Valenzuela to raise the issue of the scope of the articles on the social function of property. He thus held that the social constitutional movement »which inspires the reform of article 38 that we encourage« had its origin in »the 1919 German constitution which, despite safeguarding private property in article 153, states that »its content and limitation derive from the laws«. At this point, the congressman highlights that the German article states that »property entails obligations« and that »its use should also serve the common best«. ³⁸

In addition to the Weimar case, Valenzuela quoted the Mexican precedent, of which he said that, »even if it does not contain a conception

similar to the [Weimar Constitution]«, ³⁹ it socializes the property of land and water within the national territory (section 27). These property rights would originally pertain to the nation, which can then bestow them on any private citizen, thus constituting private property. At the end of his remarks on property, Valenzuela again referred to the Weimar to affirm that it was the »first step« that eloquently showed the trend in recent constitutions to imbue property with a social function. ⁴⁰

In sum, this second type of use of the Weimar reference reveals certain interpretations allowed by the German text at the time, because it was considered an unparalleled landmark of social constitutionalism. As already mentioned above, it was deemed to have even greater significance than other examples closer in time or space, or than some provincial constitutions that at the time had already made more innovations than the national constitution. It is also interesting to question the degree of knowledge the members of the Constituent Assembly had of the provisions of the Weimar Constitution. Where did they obtain their information? How detailed was their knowledge of the Weimar provisions? In this respect, it is interesting to study the preparatory works for the assembly, ⁴¹ since some contemporary reports and literature used to include some articles of the Weimar Constitution, particularly from section V. ⁴² It is also interesting to explore in more detail the assembly members' actual knowledge of Weimar authors like Sinzheimer or his disciples. ⁴³

2.3 *Weimar as a Prelude to Nazism, and Peronism as the Expression of a Totalitarian Regime*

Finally, a third approach to the Weimar experience refers directly to Nazi Germany and to the Weimar Constitution as the condition that made it possible. This approach was used by the adversaries of the Peronist regime to allege totalitarian and pro-Nazi elements in it. This meaning of Weimar was invoked by the Radicals Moisés Lebensohn,

34 ARGENTINA (1949) 314.

35 ARGENTINA (1949) 315.

36 *Ibid.*

37 ARGENTINA (1949) 318.

38 ARGENTINA (1949) 324.

39 *Ibid.*

40 *Ibid.*

41 I refer in particular to the report prepared by José Figuerola in 1948. See GONZÁLEZ ARZAC (1973).

42 It is common to find references to the Weimar Constitution in the juridical

magazines of the 1920s and 1930s, for example in the *Revista de la Facultad de Derecho y Ciencias Sociales* or the *Revista Argentina de Ciencias Políticas*.

43 I do this in VITA (2018).

Amilcar Mercader, and Antonio Sobral, but it was also discussed by the Peronists Eduardo Carvajal and Italo Luder. The first three, it can be assumed, only used Weimar in this way to link the Peronist Party to the German totalitarian experience. Thus the leader of the Radical representatives, Lebensohn, referred to Weimar during the debate on the constitutional reform's legitimacy by drawing a parallel between the way the law that declared the need for constitutional amendments had been passed in Argentina and the method by which the votes had been counted in the German Parliament when it decided to abolish the Weimar Constitution and give »full powers to the chancellor, thus beginning the process that led to a worldwide catastrophe«.⁴⁴

But this was not the only parallel between Nazism and Peronism that Lebensohn identified. After stating that »other contemporary movements had found shelter under the name of national revolution«, he asked: »Who started the national revolution in Germany? The National Socialist German Workers' Party. What was their basic organization to dominate the German people? The Labour Front. What structure forged the national revolution in Italy? The proletarian and fascist state. What was their instrument of propaganda? The *Carta del Lavoro*«. Lebensohn claimed that these movements and concepts had links to phenomena that had lately appeared in Argentina.⁴⁵

The reference that Mercader, also a Radical representative, made to Weimar went in the same direction. Faced with the Peronists' argument that this constitutional reform obeyed the will of the majority, he maintained that »majorities do not govern in the absolute sense of the word«. While he did not intend to ignore the rights of majorities, he reminded his listeners that the principle of majority rule was »respectfully being questioned in recent international legal scholarship, in reputable books, many of which deserve to be cited preferentially by some congressmen«⁴⁶ – a clear reference to Carl Schmitt and the Weimar experience.⁴⁷

In the case of Sobral, the mention of Germany had the purpose of representing certain elements

of social constitutionalism as the basis for the advance of totalitarianism. In this sense, he maintained that »dictatorships take advantage of their own legality and of the judicial systems of the liberal democracies which they condemn in order to rise to power«. Such operations were being conducted by the Nazis after the dissolution of the *Reichstag* in February 1933. After mentioning the crisis of the Weimar Constitution, Mercador pointed out that »Februarys are a sign of doom«,⁴⁸ a clear reference to the Argentine Constitutional Assembly with its Peronist majority that had begun its sessions at the end of January. The parallel Mercador drew between the rise of Nazism and the Perón regime was even more explicit when he said that Peronists had in their draft constitution contained »next to the workers' rights and other social rights [also] provisions for a state of emergency« that could be used to »grant extraordinary powers to the president of the republic«.⁴⁹

The Peronists, for their part, made references to Weimar and Nazism in order to contest the Radicals' accusations. For Italo Luder, the Weimar experience was a warning against those political forces that did not recognize the will of the majority. »Weimar's Germany, democratic Germany« had tolerated political militancy from groups that did not recognize popular sovereignty but did recognize the head of government as an original, not delegated authority, and in the end »paid with their lives for such terrible mistake. One we must not make«.⁵⁰

Finally, the congressman Carvajal, who called himself a representative of the working class, resorted to the German experience to answer the accusation that the »political philosophy of the Peronist party is inspired by German Nazism«. He stated that this meant »an offence to all Argentine citizens, without distinction of political allegiance, because German Nazism in its doctrine could not be applied in the Argentine Republic nor in any other country of Latin race, because it is a feature of the Teutonic race, it is their heritage [...]«.⁵¹

In sum, it is evident that references to Weimar and Nazism must be interpreted in context. There are still some aspects of contemporary perceptions

44 ARGENTINA (1949) 151–152.

45 ARGENTINA (1949) 327–328.

46 ARGENTINA (1949) 156.

47 *Ibid.*

48 ARGENTINA (1949) 301.

49 ARGENTINA (1949) 302.

50 ARGENTINA (1949) 482.

51 ARGENTINA (1949) 390–391.

linking Argentine Peronism with Nazism that remain to be explored. The truth is that in this case Weimar and its tragic ending were used by the opposition party, the Radicals, to find arguments against the constitutional reform and to try to show that their suspicions of Peronist totalitarian tendencies were not unfounded. We could say that of the three types of references that assembly members made to Weimar, this is the one that best reflects its pragmatic political use.

3 Conclusions: Translating Weimar in Argentina

This article has tried to explore one of the many aspects linked to the transnational translation of law in the context of the 1949 Argentine constitutional reform: the interpretations of Weimar as a precedent of social constitutionalism. This does not mean that the Weimar Constitution is the only important international precedent when analyzing the Argentine reform. However, it is a case study that reveals a lot about the Argentine constitutional and political process. In other words, the interpretations of Weimar that featured in the context of the 1949 reform tell us more about how the Peronist Party and their reforms were perceived than about the actual German experience. From a perspective of studies on *cultural translation*, the benefit of this case study lies in these specific »translations« of the provisions and their interpretation by the participants in the 1949 Argentine reform process.⁵²

In this sense, the three »uses of Weimar« during the 1949 constitutional assembly demonstrate the prestige and influence that some German jurists of

that time had in the field of Argentine public law, particularly those scholars whose work had been translated into Spanish earlier and available in the main libraries of the Argentine law schools. In this process some actors, such as Sampay, became key »mediators« who served as a link to connect ideas and legal phenomena that took place far away, not only in geographical but also in linguistic terms.

Secondly, these uses also show that Weimar was a mandatory reference in matters of social constitutionalism, and that such references underlined mainly the most positive aspects for the Argentine case (the social function of property and the protection of the family). By contrast, those aspects that may have appeared more alien or controversial, such as the democratic economy or the system of workers' councils, were ignored. Let us not forget that the Argentine model of trade unions, which has its origins under the first government of Perón, would develop in a direction completely different from the German one, with less democratic participation by the workers than in Germany.⁵³

Finally, the approach to the Weimar Constitution in Argentina in 1949 also enables us to know more about Argentine interpretations of Nazism and of Weimar as its prelude. In the late 1940s, the Weimar Constitution and its authors no longer simply represented pioneers of social constitutionalism as which they had been seen during the 1920s and even the 1930s. In 1949, Weimar was also a warning that a regime could lead to totalitarian horror, and this is the aspect that detractors of the Peronist regime most profited from. ■

52 In this same *Focus* section, COFFEY shows how normative translation can also be implicit.

53 For the characteristics of Argentine union model, see CORTE (1994).

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